



*Michael Colbruno, Chair
C. Blake Huntsman, Vice Chair
Doug Boxer
Sandra E. Gálvez
Anne Mudge
Madeleine Zayas-Mart*

April 15, 2009
Regular Meeting

REVISED 4-7-09* (See End of Agenda)

MEAL GATHERING **5:15 P.M.**

Saigon Restaurant, 326 Frank Ogawa Plaza, Oakland.

Open to the public (Members of the public may purchase their own meals if desired.
Consumption of food is not required to attend.)

BUSINESS MEETING **6:00 P.M.**

Hearing Room 1, City Hall, One Frank H. Ogawa Plaza


Persons wishing to address the Commission on any item on the agenda, including Open Forum and Director's Report, should fill out a speaker card and give it to the Secretary "*Agenda items will be called at the discretion of the Chair not necessarily in the order they are listed on the Agenda*". Speakers are generally limited to two minutes at the discretion of the Chair. Applicants and appellants are generally limited to five minutes.

The order of items will be determined under "Agenda Discussion" at the beginning of the meeting. With the exception of Open Forum, a new item will not be called after **10:15 p.m.**, and the meeting will adjourn no later than **10:30 p.m.** unless the meeting is extended by the Chair with the consent of a majority of Commissioners present.

Please check with the Planning Department prior to the meeting regarding items that may be continued. Any agenda item may be continued, without the hearing on the matter being opened or public testimony taken, at the discretion of the Chair. Persons wishing to address the continued item may do so under Open Forum.

Staff reports for items listed on this agenda will be available by 3:00 p.m. the Friday before the meeting, to any interested party, at the Community and Economic Development Agency, Planning and Zoning Division, 250 Frank

For further information on any case listed on this agenda, please contact the case planner indicated for that item. For further information on Historic Status, please contact the Oakland Cultural Heritage Survey at 510-238-6879. For other questions or general information on the Oakland City Planning Commission, please contact the Community and Economic Development Agency, Planning and Zoning Division, at 510-238-3941.

 This meeting is wheelchair accessible. To request materials in alternative formats, or to request an ASL interpreter, or assistive listening device, please call the **Planning Department at 510-238-3941** or **TDD 510-238-3254** at least three working days before the meeting. Please refrain from wearing scented products to this meeting so attendees who may experience chemical sensitivities may attend. Thank you.



**New web-site staff report
download instructions**

H. Ogawa Plaza, Oakland, California 94612. **Reports are available at the Strategic Planning Division on the 3rd floor (Suite 3315), which closes at 5:00 p.m.**

Staff reports are also available on-line, by 3:00 p.m. the Friday before the meeting, at www.oaklandnet.com by searching “Frequently Visited Pages” located on the City of Oakland Homepage. Clicking on “Planning Commission Meetings” will open a menu of Planning Commission and Committee Agendas. Staff reports are available on the selected agenda by clicking on the highlighted case file number. You will need to ensure that your computer will accept pop-ups from the host site (oaklandnet.com) and that your computer has a later version of Adobe Acrobat Reader installed. For further information, please call **510-238-3941**.

If you challenge a Commission decision in court, you will be limited to issues raised at the hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, the hearing. Any party seeking to challenge in court those decisions that are final and not administratively appealable to the City Council must do so within ninety (90) days of the date of the announcement of the final decision, pursuant to Code of Civil Procedure Section 1094.6, unless a shorter period applies.

Please note that the descriptions of the applications found below are preliminary in nature and that the projects and/or descriptions may change prior to a decision being made.

While attending Planning Commission Meetings, parking in the Clay Street Garage is free. Attendees should write “Planning Commission” on the back of the parking ticket.

Applicants or members of the public that plan power point presentations: Please contact Robynn Parker at raparker@oaklandnet.com or 510-238-2950 or Gwen Brown at gbrown@oaklandnet.com or 510-238-6194 at least 48 hours prior to the meeting.

ROLL CALL

WELCOME BY THE CHAIR

COMMISSION BUSINESS

Agenda Discussion

Director’s Report

[Housing Element Update](#)

Committee Reports

Commission Matters

City Attorney’s Report



OPEN FORUM

At this time members of the public may speak on any item of interest within the Commission's jurisdiction. Speakers are generally limited to two minutes or less if there are six or less speakers on an item, and one minute or less if there are more than six speakers.

CONSENT CALENDAR

The Commission will take a single roll call vote on all of the items listed below in this section. The vote will be on approval of the staff report in each case. Members of the Commission may request that any item on the Consent Calendar be singled out for separate discussion and vote.

- | | | |
|----|-------------------------------------|---|
| 1. | Location: | 5329-5345 Foothill Boulevard (APN: 035-2389-017-03) |
| | Proposal: | To install 12 concealed telecommunication antennas, and two enclosed equipment shelters at a site with 10 existing antennas for a total of 22 telecommunication antennas. |
| | Applicant: | Verizon Wireless |
| | Contact Person/Phone Number: | Charnel McCall-James /(925)244-1890 |
| | Owner: | Fairfax Lighthouse Deliverance Center |
| | Case File Number: | CMD08-322 |
| | Planning Permits Required: | Regular Design Review to install 12 concealed telecommunication antennas and two enclosed equipment shelters.
Major Conditional Use Permit for the installation of a Macro telecommunication facility within 100 feet of a residential zone. |
| | General Plan: | Neighborhood Center Mixed Use |
| | Zoning: | C-30 District Thoroughfare Commercial Zone
S-4 Design Review Combining Zone
R-70 High Density Residential Zone |
| | Environmental Determination: | Exempt, Section 15301 of the State CEQA Guidelines; minor additions and alterations to existing structures.
Section 15183 of the State CEQA Guidelines; projects consistent with a community plan, general plan or zoning. |
| | Historic Status: | Potential Designated Historic Property; Survey Rating: Cb+2+ |
| | Service Delivery District: | 5 |
| | City Council District: | 4 |
| | Status: | Pending |
| | Action to be Taken: | Decision of Application |
| | Finality of Decision: | <i>Appealable to City Council</i> |
| | For Further Information: | Contact case planner Michael Bradley at (510) 238-6935 or by email: mbradley@oaklandnet.com |

PUBLIC HEARINGS

The hearing provides opportunity for all concerned persons to speak; the hearing will normally be closed after all testimony has been heard. If you challenge a Commission decision in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, the public hearing.



The Commission will then vote on the matter based on the staff report and recommendation. If the Commission does not follow the staff recommendation and no alternate findings have been prepared, then the vote on the matter will be considered a “straw” vote, which essentially is a non-binding vote directing staff to return to the Commission at a later date with appropriate findings and, as applicable, conditions of approval that the Commission will consider in making a final decision.

If you wish to be notified on the decision of an agenda item, please indicate the case number and submit a self-addressed stamped envelope, for each case.

Planning Commission decisions that involve “major” cases (i.e., major variances, major conditional use permits) are usually appealable to the City Council. Such appeals must be filed within ten (10) calendar days of the date of the announcement of the Planning Commission decision and by 4:00 p.m. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the Case Planner. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Planning Commission or wherein their decision is not supported by substantial evidence and must include payment in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you from challenging the City’s decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so will preclude you from raising such issues during your appeal and/or in court.

Any party seeking to challenge a final decision in court must do so within ninety (90) days of the date of the announcement of a final decision, pursuant to Code of Civil Procedure section 1094.6, unless a shorter period applies.

Interested parties are encouraged to submit written material on agenda items in advance of the meeting and prior to the close of the public hearing on the item. To allow for distribution to the Commission, staff, and the public, 25 copies of all material should be submitted. Material submitted at least ten days prior to the meeting may be included as part of the agenda packet; material submitted later will be distributed at or prior to the meeting. To ensure that material is distributed to Commissioners, it should be received by the Commission.

- | | |
|----|--|
| 2. | Location: 2500 Embarcadero, Suite C / <u>Just Dance Ballroom</u>
(Legal address: 2121 Diesel Street; APN: 019 -0070-001-03) |
| | Proposal: To allow the sale of alcohol by proprietor at events held at a dance instruction studio on weekend evenings approximately once a month.
<i>The center has a Conditional Use Permit for Group Assembly Commercial Activity (Planning & Zoning Division) and a Cabaret license (City Administrator’s Office); the proposal may require a Special Events Permit (Police Department)</i> |
| | Contact Person/ Mr. San Manh / Just Dance Ballroom |
| | Phone Number: (510) 654-8288 |
| | Owner: Steve Fagalde / 2100 Embarcadero LLC |
- (continued on page 5)



(continued from page 4)

Case File Number: **CMV 08-211**

Planning Permits Required: Major Conditional Use Permit with Special Findings (2*) to allow an Alcoholic Beverage Sales Commercial Activity (OMC Sec. 17.72.040(B), 17.102.210(A) & (B)(3), 17.134.020(A)(2)(a)(viii))
**Use Permit Criteria for Establishments Selling Alcoholic Beverages; Findings of Public Convenience or Necessity to locate in an Over-concentrated area*
Major Variances to waive the criteria that a project located in an Over-concentrated area and outside of the Central Business District and Hegenberger Corridor not be located within (a) 1,000-feet of a public park or (b) a Police Beat where service calls exceed Citywide mean by 20% (OMC Sec.17.102.210(B)(4))

Estuary Policy Plan: LI-2: Light Industry (Brooklyn Basin)
 (southwest corner: Waterfront Commercial Recreation 2)

Zoning: M-40 Heavy Industrial Zone

Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines: "operation of existing private structures, facilities";
 Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning

Historic Status: Not a Potential Designated Historic Property;
 No Survey Rating

Service Delivery District: IV – San Antonio / Fruitvale

City Council District: 5 – Vice Mayor De La Fuente

Date Filed: July 14, 2008

Action to be Taken: Decision based on staff report

Finality of Decision: *Appealable to City Council*

For Further Information: Contact case planner **Aubrey Rose, Planner II** at (510) 238-2071 or arose@oaklandnet.com

PLEASE NOTE: ITEM #3, BELOW, HAS BEEN REMOVED FROM THIS AGENDA.

3. **Location:** **2448 E. 24th Street (See map on reverse)**

Assessors Parcel Numbers: **(026-0783-021-00)**

Proposal: Request for a Major Interim Conditional Use Permit to allow a general food sales activity (neighborhood market) inside an existing commercial building.

Applicant: Asiah Mohsin

Contact Person/ Phone Number: Asiah Mohsin
 (510) 434-0401

Owner: Abdo N. Abdo

Case File Number: **CM08-323**

(continued on page 6)



(continued on page 7)

Planning Permits Required: Major Conditional Use Permit to establish a new general food sales commercial activity; a neighborhood grocery store located inside an existing 1,600 sq/ft commercial building.

General Plan: Mixed Housing Type

Zoning: C-10 Local Retail Commercial (DET08-097)

Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines; existing facilities; 15183 Projects consistent with the General Plan or Zoning.

Historic Status: Potential Designated Historic Property; Survey rating: Fd2*

Service Delivery District: 4

City Council District: V

Date Filed: 12/17/08

Finality of Decision: Appealable to City Council

For Further Information: Contact case planner **Jose M. Herrera-Preza** at (510) 238-3808 or jherrera@oaklandnet.com

4. **Location:** Citywide

Proposal: 1) Amend the use classifications in Chapter 17.10 of the City of Oakland Planning Code and make related text amendments;
2) Amend the document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" to reflect the above changes.

Applicant: City Planning Commission

Case File Number: **ZT09-023**

Planning Permits Required: Zoning Text Amendment

General Plan: All General Plan Categories

Zoning: All Zoning Categories

Environmental Determination: The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998)). The proposal is also exempt under CEQA Guidelines Section 15061(b)(3): no possibility that the activity in question may have a significant effect on the environment.

Service Delivery District: All

City Council District: All

Date Filed: February 4, 2009

Status: The proposal was heard at the February 18, 2009 Zoning Update Committee (ZUC) meeting. At that meeting, the ZUC recommended the proposal be heard in front of the Planning Commission.

Action to be taken: Recommendation to the City Council

Finality of Decision: Recommendation forwarded to the City Council for final decision.

For further information: Contact case planner **Laura Kaminski** at (510) 238-6809 or by email at: lkaminski@oaklandnet.com



- 5.
- Location:** M-40 Zones in the Central Estuary Plan Area
- Proposal:** Consider proposed amendment to the zoning maps, for a period of two years, adding the S-4 Design Review Combining Zone to M-40 zones in the area where the Central Estuary specific plan effort is ongoing. New and renovated property would be reviewed under the design review procedure in Chapter 17.136 (O.M.C.), in an area from approximately 19th Avenue to 54th Avenue and from Interstate 880 to the Estuary.
- Applicant:** Planning Commission
- Contact Person/Phone Number:** Eric Angstadt, Deputy Director/ 510-238-6190
- Case File Number:** [ZT 09053](#)
- Planning Permits Required:** Zoning Map Amendments
- General Plan:** Estuary Policy Plan
- Zoning:** M-40
- Environmental Determination:** The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998)
- Service Delivery District:** 3-4
- City Council District:** 5
- Status:** Recommend to City Council
- Action to be Taken:** Forward recommendation to City Council
- For Further Information:** Contact Eric Angstadt, Deputy Director, CEDA (510) 238-6190 or by email: eangstadt@oaklandnet.com

- 6.
- Location:** Central Business District
- Proposal:** Consider interim control to allow the Planning Director to approve commercial uses under 10,000 square feet on ground floors at their discretion. The interim control would be effective for two years or until the City Council takes final action on proposed zoning amendments to the Central Business District.
- Applicant:** Planning Commission
- Contact Person/Phone Number:** Eric Angstadt, Deputy Director/ 510-238-6190
- Case File Number:** [ZT 09054](#)
- Planning Permits Required:** Ordinance Amendments
- General Plan:** Central Business District
- Zoning:** C-55 C-51 C-52
- Environmental Determination:** The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998)
- Service Delivery District:** Metro
- City Council District:** 2 & 3
- Status:** Recommend to City Council
- Action to be Taken:** Forward recommendation to City Council
- For Further Information:** Contact Eric Angstadt, Deputy Director, CEDA (510) 238-6190 or by email: eangstadt@oaklandnet.com

PLEASE NOTE: ITEM NO.7, BELOW (DOWNTOWN ZONING) WILL NOT BE HEARD UNTIL AFTER 8:00 P.M.

7. **Location:** Central Business District (CBD): area bounded by 23rd Street to the north, I-980 to the west, I-880 to the south, and Lake Merritt and Fallon Street to the east.

Proposal:

 - 1) Amend the zoning regulations to create four new zones and make related text amendments;
 - 2) Amend the zoning maps to include the new CBD zones and height/bulk/intensity areas for the CBD;
 - 3) Amend the document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" to reflect the above changes.

Applicant: City Planning Commission

Case File Number: [RZ08060, ZT08054](#)

Planning Permits Required: Rezoning, Zoning Text Amendment

General Plan: Central Business District

Zoning: **From:** R-80 High-Rise Apartment Residential; R-90 Downtown Apartment Residential Zone; C-40 Community Thoroughfare Commercial; C-45 Community Shopping Commercial Zone; C-51 Central Business Service Commercial Zone; C-52 Old Oakland Commercial; C-55 Central Core Commercial; S-2 Civic Center; S-4 Design Review Combining; S-7 Preservation Combining; S-8 Urban Street Combining; S-17 Residential Open Space Combining Zones.
To: CBD-R Central Business District Residential Zone; CBD-P Central Business District Pedestrian Retail Commercial Zone; CBD-C Central Business District General Commercial Zone; CBD-X Central Business District Mix Commercial Zone; and S-7 Preservation Combining Zone.

Environmental Determination: The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the Final Environmental Report for the 1998 Amendment to the Historic Preservation Element of the General Plan; the Housing Element Update Initial Study/Mitigated Negative Declaration (2004); and CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning".

Historic Status: The Central Business District contains several Areas of Primary Importance (APIs), Areas of Secondary Importance (ASIs), landmark properties, and other historically rated properties.

Service Delivery District: Metro

City Council District: 2 and 3

Status: Recommended by Zoning Update Committee to be heard in front of the Planning Commission.

Action to be Taken: Recommendation to the City Council.

Finality of Decision: Recommendation forwarded to City Council for final decision.

For Further Information: Contact case planner **Neil Gray** at **(510) 238-3878** or by email: ngray@oaklandnet.com



APPEALS

The Commission will take testimony on each appeal. If you challenge a Commission decision in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Zoning Division, Community and Economic Development Agency, at, or prior to, to the public hearing; provided, however, such issues were previously raised in the appeal itself.

Following testimony, the Commission will vote on the report prepared by staff. If the Commission reverses/overturns the staff decision and no alternate findings have been prepared, then the vote on the matter will be considered a "straw" vote, which essentially is a non-binding vote directing staff to return to the Commission at a later date with appropriate findings and, as applicable, conditions of approval that the Commission will consider in making a final decision.

Unless otherwise noted, the decisions in the following matters are final and not administratively appealable. Any party seeking to challenge these decisions in court must do so within ninety (90) days of the date of the announcement of the final decision, pursuant to Code of Civil Procedure section 1094.6, unless a shorter period applies.

(There are no appeals on this agenda)

COMMISSION BUSINESS

Approval of Minutes: April 1, 2009

Correspondence

City Council Actions

OPEN FORUM

At this time members of the public may speak on any item of interest within the Commission's jurisdiction. Speakers are generally limited to two minutes or less if there are six or less speakers on an item, and one minute or less if there are more than six speakers.

ADJOURNMENT By **10:30 P.M.** unless a later time is agreed upon by a majority of Commissioners present.

**SCOTT MILLER
Zoning Manager
Planning and Zoning Division**

NEXT REGULAR MEETING: To be determined

* Revised 4-7-09 to remove Item #3 from this agenda.